

REMARKS

Favorable reconsideration and allowance of this application are requested.

By way of the amendment instructions above, claim 23 has been added so as to emphasize that the second polymer component (i.e., the sheath polymer) is substantially sulfonate-free. Support for new claim 23 can be found in the originally filed specification at page 11, line 17. Claims 2, 3, 9, 10 and 23 therefore are pending herein for which favorable reconsideration and allowance are requested.

Prior claims 2, 3, 9 and 10 attracted a rejection under 35 USC §103(a) based on Lin (USP 5,447,794) in view of Lijten et al (USP 5,468,555), and further in view of Hoyt et al (USP 5,340,886). In essence, the Examiner's position appears to be that one of ordinary skill in this art would "obviously" employ the modified polyamide disclosed in Hoyt et al as the sheath of the bicomponent fibers disclosed in Lin.¹

The Examiner's rationale is based in large part on an asserted misreading of Lin by the Board of Appeals and Interferences (hereinafter "the Board") in its decision dated November 21, 2002 in the subject application. Applicant suggests that the Board has not misread Lin at all.

It is true that Lin discloses in Example 2 an amine end group content of about 50 gram equivalents per million grams of polymer for the core nylon 6,6 polymer. However, with all due respect, applicants cannot see any "misreading" of Lin by the Board in the passage cited by the Examiner. Specifically, on page 7 of the decision quoted by the Examiner, the Board noted that:

¹ Although no specific mention of Lijten et al has been made in the March 14th Official Action, applicant assumes the Examiner is asserting it for the same reasons previously advanced during prosecution to date – namely, that the Lin fibers could be multilobal based on the teaching in Lijten et al of multilobal carpet fibers

"Lin's example 2 [discloses that] the core is nylon 6,6, the sheath is nylon 6,12, and the concentration of titratable amino end groups is about 50 milliequivalents per kilogram...."

It seems quite clear, therefore, from the passage cited above that the Board did **not** attribute the 50 meq/kg amino end group content to the sheath polymer. Instead, what the Board stated is the following:

- (1) Lin's core polymer is nylon 6,6;
- (2) Lin's sheath polymer is nylon 6,12; and
- (3) the amino end group content that is disclosed is 50 meq/kg.

Thus, in the applicants' view, the Board has merely stated that, in terms of specific disclosure of **any** amino end group content in Lin, that amino end group content is 50 meq/kg. In other words, the Board did **not** state that the 50 meq/kg amino end group content disclosed in Lin was attributable to the nylon 6,12 sheath polymer. As such, the Board did not "misread" Lin at all.

The discussion above is quite germane to the issue of **unobviousness** of the present invention. Specifically, the Board was of the opinion that Lin did not suggest at all "...a sheath having less than 30 milliequivalents per kilogram of titratable amino end groups either by blocking amino end groups or by another method."² The Board is entirely correct on this point. That is, as noted above, the **only** disclosure of amino end group content in Lin of **any** polymeric component is 50 meq/kg. That such disclosure is attributable to the core polymer, and not the sheath polymer, does not affect the suggestions that Lin provides to ordinarily skilled persons in this art. Specifically, the

² See the Board's Decision of November 21, 2002 in the subject application at page 7, penultimate line bridging page 8.

"teaching" provided by Lin is essentially that amino end group contents are not important at all, and even if they were, Lin only discloses high amino end group contents of 50 meq/kg.

Clearly, the ordinarily skilled person cannot ascertain the amino end group content of the sheath polymer employed in Lin since it is not expressly disclosed therein. Nor could an ordinarily skilled person ascertain the amino end group content of the sheath polymer even if such a person wanted to since the particular sheath polymer disclosed (i.e., duPont's Engineering Resin FE3643) does not appear to be commercially available.³ Thus, the ordinarily skilled person is left only with what Lin explicitly discloses – that is, that the core polymer has an amino end group content of 50 meq/kg. In terms of amino end group contents, the suggestion of Lin therefore is that high – not low – amino end group contents are present. In other words, Lin does not and cannot direct one of ordinary skill in this art to the low amino end group contents defined by the present applicants' claims.

That chemical blocking agents may be employed for sulphonated polyamides as disclosed in Hoyt et al does not cure the deficiencies of Lin. Specifically, as noted previously, Lin does not provide any motivation for an ordinarily skilled person to select low amino end group content polymers generally. That the Examiner suggests the motivation for employing the polymer of Hoyt et al would "further enhance the Lin fiber's resistance to acid-dyes" amounts to speculation unsupported by facts. In any event, Hoyt et al teaches such amino end group blocking is accomplished for *sulfonated* polyamides, and not essentially sulfonate-free polymers as defined in applicants' claim 23.

³ See attached copy of the Declaration of Robert H. Blackwell which was submitted in related continuation application Serial No. 09/860,061 (Atty. Dkt. 1005-196) which states, *in alia*, that no information pertaining to the sheath polymer disclosed in Lin could be located by conducting internet searches.

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Therefore, on balance, one of ordinary skill in this art would not be lead in the first instance by Lin to employ low amino end group content sheath polymers and thus, the combination of Lin and Hoyt et al (and Leitjen et al) appears to be based improperly on the present applicants' disclosure.

Withdrawal of the rejection advanced against the pending claims under 35 USC §103(a) is therefore in order, and such favorable action is solicited.

Respectfully submitted,

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